

Amesbury City Council Minutes
Tuesday, May 14, 2013
7:00PM City Hall Auditorium

Meeting called to order at 7:05 p.m.

Councilor McClure led the Pledge of Allegiance.

Roll Call –Councilor McClure, Councilor McMilleon, Councilor Neale, Councilor Scorzoni, Councilor Gilday, Councilor Kelcourse, Councilor Kimball, Councilor Ferguson and Councilor Lavoie arrived at approximately 7:30 p.m.

Act on minutes – Councilor McMilleon moved to accept the Minutes of March 12, 2013 as submitted. Councilor Gilday seconded and it was voted Unanimous

Mayoral Appointments -

2013-062 Certificate of Appointment, Stephen Noce, 25 Pond Street/Landry Stadium Committee

Mr. Noce stated that he is new to the community and wanted to get involved in some way and thought this was a good fit.

Councilor Kimball moved to accept the appointment. Councilor McMilleon seconded and it was voted Unanimous

2013-063 Certificate of Appointment, Andrea Bailey/Cultural Council-withdrawn application.

Licenses & Permits -

2013-045 General Business -Megahertz Computer Inc. D/B/A Amesbury Duplicate Bridge Club– 19 Macy Street

Robert Bertoni stated this is the same bridge club that was at the Congregational Church and then moved to Route 110, Boston North Properties and the lease is up there and he has recently taken over the business. We are attached to the Napa building on Route 110.

Councilor Neale moved to accept 2013-045 with the usual stipulations. Councilor Kimball seconded and it was voted Unanimous

2013-058 Common Victualler – Quinns Canine Café - 14 Cedar Street

Quinn Soine, owner stated that she is moving her operations from her sole kitchen to the common use kitchen at 14 Cedar St. She stated that she makes natural and organic dog treats that she sells either on-line or at fairs and markets in the area.

Councilor Kimball moved to accept 2013-058 with the usual stipulations. Councilor Neale seconded and it was voted Unanimous

2013-059 Common Victualler – Busta Browns, LLC - 14 Cedar Street

Julie Vincent, 28 Greenwood St., stated that she is opening a business to run a hot dog cart and would like to use the common use kitchen at 14 Cedar St to maybe get into more than just hot dogs.

Councilor Kimball moved to accept 2013-059 with the usual stipulations.

Councilor Neale seconded and it was voted Unanimous.

2013-061 Common Victualler – Crave- 32 Elm Street -Transfer to New Owner Sean Toomey, 33 Arlington St. stated that he is looking to purchase Crave Brasserie and Wine Bar. His hours will remain the same as they are now with Sunday evenings and lunches on the weekends probably around July or August. Councilor Neale moved to accept 2013-061 with the usual stipulations. Councilor McMilleon seconded and it was voted Unanimous.

2013-057 Pole Hearing - Verizon & National Grid at South Hunt Road Joseph Gleason, Right of Way Agent with Verizon New England Inc. stated that he was here with a joint request from Verizon and National Grid for the placement of one pole on South Hunt Rd. It would be approximately 1200 feet from the centerline of Buttonwood Rd. National Grid has notified him that this pole is needed for the new location of the Compost Facility and there is a pumping station at that location that requires a three phase service and it was not available on the existing pole. This petition is more for the benefit of the City of Amesbury. There were no abutters in the audience to speak on this issue. Councilor Neale read a memo from Peter Manor of the DPW. This will be replaced immediately.

Councilor Gilday moved to accept 2013-057 for Verizon/National Grid to set a new pole for DPW Pumping Station and Compost. Councilor Neale seconded and it was vote Unanimous

2013-064 Common Victualler – Zac and Ani's, 14 Cedar St

Councilor Ferguson asked if the council would accept a late file of 2013-064, a common victualler license for Zac and Ani's for 14 Cedar St.

Councilor McMilleon asked why they would do this since they just changed their rules about submission of bills.

Councilor Ferguson stated that this has to do with opening up a brand new establishment and waiting for our next scheduled meeting would create a hardship for him so she agreed to accept is as a late file as long as the rest of the Council agreed.

Councilor McMilleon moved to accept under late file. Councilor Gilday seconded and it was Unanimous.

Brian Bienvenue of Newburyport stated that he currently has a bakery in Newburyport and he is switching from retail to wholesale and will be utilizing the kitchen at 14 Cedar St. for vegan/gluten free cookie dough.

Councilor Gilday moved to accept 2013-04 with the usual stipulations. Councilor Neale seconded and it was voted Unanimous.

Public Comment

Michael Greaney, Orchard St. asked if the new offices in the Ordway School were advertised for bids and what the costs was. He wanted to know if anyone has received a bid for the demolition for the Annex and what the bid price was and when that was to be completed. He wanted to know what the plans for the Fire Department are and when are they going to start as well as the retrofitting of the Police station and what is left for money of the grant for windows in the Police Station. He stated that at the new DPW building there is a conference room and wanted to know if that room is for the Mayor to hold special meetings.

Claude Gonthier, Kimball Rd. handed out a request for information on spending on the Fire Headquarters and Chapter 90 money and would like a formal response. Councilor Neale asked if he had requested any of this information from the Mayor or Mr. Basque and Mr. Gonthier stated he had not.

Jane Snow, Fern Ave handed out a spreadsheet of home sales and comparisons between schools. She stated that she visited the DPW facility and does not know why we are retrofitting the Ordway Building. She feels the Mayor should do a presentation to let the public know what is going on. She is upset that she was not able to get a budget book.

Jim Thivierge, Whitehall Rd., stated that he has compared this budget with last year's budget he has asked that these meetings be televised. He asked that the Youth and anything recreational be put into Landry Stadium enterprise and the Ambulance should also be an enterprise fund.

Melissa LaChance, Director of the Chamber of Commerce gave a heads up that the annual Block Party will be on Thursday, June 27, 2013 in front of the Rectory of the Congregational Church, the Library and at the Gazebo.

Councilor Ferguson closed the public comment.

Council Response to Public Comment

Councilor McMilleon stated he wanted to go back to correspondence and asked if there was any communications with Representative Costello and Senator O'Connor-Ives on speaking about the state budget.

Councilor Ferguson stated that she has spoken with Senator O'Connor-Ives office and they are in the same crunch that we are at. They are in the middle of fact finding and she didn't have anything that she could add at this time that we

weren't able to get from the MMA. She stated that she will be meeting with her again tomorrow and will ask again.

Councilor Gilday stated that to partially answer some of Mr. Greaney's questions, the Planning Board did approve the plans for the Fire Department. The bids are going out the First of June and construction is to start the beginning of August. The Police work is basically completed except for some pin pointing on the front of the building.

Councilor Neale stated that for Ms. Snow's interest, the budget is filed with a timeline in mind so they can't technically make available a budget before this council meeting, otherwise the clock starts and we only have 45 days to undertake the entire budget process. He stated he would speak with the Mayor's Office about having books available. That is the purpose of a late file which happens every year.

Councilor Ferguson stated that she has all of the questions written down and will get answers for them.

Councilor Ferguson opened the public hearing.

2013-030 An Order that the City Council vote to accept the Quitclaim deed from Yvon Cormier Construction Corporation for land off of Goss Avenue. – Mayor Kezer sponsor

Summary: This order will accept the Quitclaim deed from Yvon Cormier Construction Corporation for a parcel of land known as Parcel 5-1, consisting of 104,058 square feet, located off Portsmouth Avenue Extension, at the cul-de-sac forming the end of Goss Avenue, as shown on a plan entitled "Plan of Land in Amesbury, Massachusetts Prepared for Applicant: John Cormier," recorded with the Essex South Registry of Deeds in Plan Book 420, Plan 60.

Councilor Lavoie read the Ordinance Committee recommendation: Ms. Casey moved to send 2013-025 back to the Municipal Council with a recommendation for approval with a note to the Municipal Council that further work would need to be done in order to effectuate the transfer of the revenue from the local meals tax into a special purpose stabilization fund for sidewalk repairs. Councilor Kelcourse seconded and it was voted Unanimous.

Councilor Lavoie gave a brief explanation of what a quit claim deed is.

Nipun Jain, Town Planner gave a brief overview and explained that the parcel is undevelopable and it is being used as drainage purposes for the subdivision itself. It is of value as far as the open space management that the city so under that purview and under the purview of the subdivision requirements it is being donated to the city.

Jane Snow asked for an explanation as to why this is valuable to us since we already have so many properties that we no longer get revenue on.

Councilor Lavoie stated that for subdivision regulations there are areas that are always set aside for open space to be dedicated for public use. The Planning Board and Conservation Commission prefer to have ownership and to have control. As far as the taxation the land is worth what you can use it for. An unbuildable parcel of land full of wetlands, and drainage and open space is not worth very much and at the end of the day all one need to do is stop paying the taxes and the town ends up with it anyway. This way we can get a nice clean deed out of the developer.

Mr. Jain stated that one of the requirements under the subdivision control law is that the drainage system is constructed on a separate lot so that any buildable lot is not encumbered by drainage issues and then the city accepts the right of way or the feet in the street. It also accepts the responsibility of maintaining those areas.

Councilor Ferguson closed the public hearing.

Councilor Lavoie moved the Council accept the recommendation of the Ordinance Committee and pass this bill as submitted.

Councilor Gilday seconded and a roll call vote was taken: McClure-Y, McMilleon-Y, Neale-Y, Scorzoni-Y, Gilday-Y, Kelcourse-Y, Kimball-Y, Lavoie-Y and Ferguson-Y: (Unanimous)

2013-031 An Order to transfer and convey the Horace Mann School located at 8 Congress Street and 10 Congress Street. – Mayor Kezer sponsor

Summary: To transfer the care, custody and control of the parcels of land located at 8 Congress Street and 10 Congress Street and shown on Assessors Map 54 as Parcels 14A and 14, respectively, which parcels the School Committee has determined to be no longer required for school purposes, from the School Committee for school purposes to the Mayor for the purpose of conveyance, and to authorize the Mayor to convey said parcels on such terms and conditions and for such consideration as the Mayor may deem appropriate.

Councilor Lavoie read the Ordinance Committee recommendation: Councilor Kelcourse moved to send to the City Council with a recommendation for adoption amended as follows, that it read: that the City Council vote to surplus and transfer control of the property located at 8 Congress Street and 10 Congress Street to the Mayor and authorize the Mayor to convey said parcels on such terms and conditions and for such consideration as the Mayor may deem appropriate but in accordance with applicable Massachusetts Law and applicable Amesbury Ordinances for surplus property.

Mr. Johnson seconded and it was voted Unanimous

Mr. Jain stated that he believes that the summary and the recommendation say it all. This is more of an executive and administrative issue.

Councilor Ferguson opened and closed the public hearing as there was nobody that wished to speak on this item.

Councilor Lavoie stated that this is one of the many properties that many on this council have been requesting be surplus. The building is only suffering from non-use. It is a good time and the economy is coming back. There may be more appetite to add some additional conditions. He stated that he was concerned with the wishes of the neighborhood. He stated that his thinking was that the Mayor would fashion a request of interest and then maybe schedule a community based meeting to be held and discuss what is to become of that property and lastly that the city would send a letter to the assessed property owners in the neighborhood using a scale larger than the normal zoning which is only 300 ft from the property.

Councilor Gilday stated that he agreed with Councilor Lavoie.

Councilor Ferguson stated that she would like to see those stipulations as well.

Councilor Lavoie moved that the City Council vote to surplus and transfer control of the property located at 8 Congress Street and 10 Congress Street to the Mayor and authorize the Mayor to convey said parcels on such terms and conditions and for such consideration as the Mayor may deem appropriate but in accordance with applicable Massachusetts Law and applicable Amesbury Ordinances for surplus property subject to the following additional conditions; in order to advise the Mayor to the major stake holders regarding the disposition and ultimate re-use of the property the following steps shall be undertaken by the City of Amesbury; a.) The Mayors Office will cause to be distributed in a reasonable fashion a request for expressions of interest, the same to be sent to parties who may reasonably have an interest in the redevelopment and repositioning of the property; b.) A community based meeting would be scheduled and held in order to discuss what is to become of the property and c.) The City will send a letter to the assessed property owners in the neighborhood using a reasonable scale intended to be slightly larger than the normal special permit type of zoning notification which is typically abutter to abutter within 300 feet of the perimeter of the property.

Councilor Gilday seconded and a roll call vote was taken. McClure-Y, McMilleon-Y, Neale-Y, Scorzoni-Y, Gilday-Y, Kelcourse-Y, Kimball-Y, Lavoie-Y and Ferguson-Y: (Unanimous)

2013-025 A Request to Establish a Local Option Meals Tax – Councilors Scorzoni, Gilday and Lavoie sponsor

Summary: To establish a special purpose stabilization fund for sidewalk construction and repairs to be funded through a local option meals tax.

Councilor Neale read the recommendation from the Finance Committee. He stated that there was a vote of 4 In Favor and a vote of 4 Opposed and 1 Present vote.

Councilor Lavoie read the recommendation from the Ordinance Committee: Ms. Casey moved to send 2013-025 back to the City Council with a recommendation for approval with a note to the City Council that further work would need to be done in order to effectuate the transfer of the revenue from the local meals tax into a special purpose stabilization fund for sidewalk repairs. Councilor Kelcourse seconded and it was voted Unanimous.

Councilor Scorzoni gave a brief background on this. He said that his goal was to identify a potential funding source that could be reasonably implemented while providing a direct tangible benefit to our community in the form of sidewalk repairs.

Councilor Ferguson opened the public hearing.

Jane Siebecker, Elm St. stated that she is in support of the meals tax.

James Thivierge stated that he is not in support of the meals tax and would like to see this held off until later.

Councilor Gilday stated that he is in favor of this and would request that some of the others change their minds and support this bill.

Councilor McMilleon stated that he is against this because it does not help to get us to look at the real problem and that is spending. Other communities that have accepted this meals tax do not show that property taxes are any lower because of this tax. We also don't know yet what the state budget is going to look like. We also know that the school budget is coming in with a significant increase and he would like to hold off.

Councilor Kimball stated that he is not in favor of this. He stated that we have revenue sources for sidewalks in town; Chapter 90, Excise and Free Cash which is already in the budget. He feels that the only way to compare with Newburyport is if our downtown had been built on Point Shore where we could have a thriving downtown. He feels this is also a timing issue and also there is no assurance that the money will be earmarked for sidewalks.

Councilor Neale stated that he voted present. He stated that Mr. Desmarais has a \$50 million dollar problem with street and sidewalks and who ultimately bears that is the property tax payers. If we don't use the options that the state gives us

they will stop trying to help us find a way to raise more revenue and he stated that he did not believe our eateries will suffer and he is in favor of this and feels we should broaden this to use it for roads as well.

Councilor Lavoie stated that there is never a good time to raise any tax. He feels that .0075 is not going to drive people over the border. DOR reports that \$25 million dollars is spent in Amesbury on restaurant and other meals tax items. Everybody has to eat. It is really discretionary, when we feel like a lark or a treat or a celebration we go out and we all have different budgets.

Councilor McClure stated that we are back to its only .0075. It is impossible when we are taxing and draconian when we are cutting. Every other town is charging for meals tax but not every other town has a \$20.24 tax rate. Not every other town pays more for water and sewer than Boston. We are overtaxed with the same services that everyone else gets. This council needs to set priorities with this budget. I can't support this.

Councilor Kelcourse stated that he has 22 petitions signed that oppose the local meals excise tax. There is a perception out there that we are paying a lot as compared to other communities. I agree that we might be middle of the pack and you can't really compare, no two communities are alike and that there are a lot of differences but our businesses pay personal property tax as well as those who own their real estate who pay real estate tax as well. He asked the councilors to wait on this and look at it again down the road.

Councilor Ferguson stated that this is a tool that the state has given us to use to recoup some of the revenues that we have lost from the state. She stated that she also spoke to local businesses and they said they would rather not have any more taxes but they understand the inevitability of it. The time is now we need to utilize it. There is no added burden to the restaurants. She stated that she is adamantly in favor of this.

Councilor Lavoie moved Ordered: I. That the City of Amesbury accept M.G.L. Chapter 64L, Section 2(a) to impose a local meals excise tax. And Further Ordered: II. That a Special Purpose Stabilization Fund for Sidewalk and Road Repairs be created under Section 5B of Chapter 40 of the General Laws. Councilor Scorzoni seconded. Roll Call Vote: 5-Yes, Gilday, Neale, Lavoie, Scorzoni, Ferguson; 4-No McMilleon, Kimball, Kelcourse, McClure

First Readings

2013-056 An Ordinance to increase the local hotel tax from 4% to 6% - Councilor McClure sponsor

Summary: The City of Amesbury currently has a 4% excise tax rate; this Bill serves to raise the rate by 2%.

Councilor Gilday moved to send 2013-056 to the Ordinance Committee and the Finance Committee. Councilor Neale seconded and it was voted Unanimous.

2013-060 An Order to amend Amesbury Code Chapter 20 Section 20-8 – Councilor Ferguson sponsor

Summary: This ordinance seeks to amend Chapter 20-8 and add section 20-8A. This order would require grant applications that require a match from the City to be submitted to the clerk and council at the time of filing.

Councilor Gilday moved to send 2013-060 to the Ordinance Committee. Councilor Neale seconded and it was voted Unanimous.

Councilor Gilday made a motion to accept 2013-001 as a late file. Councilor Kimball seconded and it was voted Unanimous.

Councilor Neale commented that the Finance Committee budget review schedule was available and the school budget will be forthcoming.

2013-001 FY14 Annual Budget – Mayor Kezer sponsor – to be submitted 5/14/2013

Councilor Lavoie moved to send 2013-001 to the Finance Committee to conduct the traditional and required workshop sessions and public hearings. Councilor Gilday seconded and it was voted Unanimous.

Councilor Gilday moved to adjourn, Councilor Lavoie seconded and it was voted Unanimous.

Respectfully submitted,

Sharon Dunning
Assistant City Clerk